United Nations Convention on the Law of the Sea SPLOS/137

Meeting of States Parties

Distr.: General
10 February 2006

Original: English

Sixteenth Meeting
New York, 19-23 June 2006

Report of the External Auditors for the financial year 2004, with financial statements of the International Tribunal for the Law of the Sea as of 31 December 2004

Submitted by the Tribunal

Introductory note

1. Deloitte & Touche (hereinafter "the Auditor") audited the financial statements of the Tribunal for the financial year 2004 in April 2005 and submitted its report on 20 May 2005.

2. It is noted from the report that the Auditor was of the view that the financial statements presented a true and fair view of the net assets, financial position and results of operations of the Tribunal, in conformity with principles of proper accounting and with the Financial Regulations of the United Nations which were applied mutatis mutandis. The Auditor further stated that the operational procedures of the Tribunal (as detailed in Exhibit VII) were in accordance with the Rules and Staff Rules of the Tribunal and the Financial Regulations and Rules of the United Nations applied mutatis mutandis.

3. In accordance with financial regulation 12.8 (SPLOS/36), the Tribunal examined the Auditor's report on the financial statements at its twentieth session and decided to forward it to the Meeting of States Parties.

06-24088 (E) 020306

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A. Scope of the examination

Subject of the audit

1. We have audited the accompanying annual financial statements of the International Tribunal for the Law of the Sea, Hamburg (hereafter also referred to as "the Tribunal" or "ITLOS") consisting of the statement of income and expenditures for the period from 1 January to 31 December 2004 (exhibit I), the statement of assets, liabilities, the Working Capital Fund and excess of income over expenditures as of 31 December 2004 (exhibit II), the notes to the financial statements for the period from 1 January to 31 December 2004 (exhibit III) and the financial report of the Registrar for the financial period from 1 January to 31 December 2004 (exhibit IV), hereinafter referred to together as the "annual financial statements". Within the scope we have additionally audited certain aspects of operating procedures for the year ended 31 December 2004 requested by the Tribunal. The preparation of the annual financial statements is the responsibility of the Registrar of the Tribunal. Our responsibility is to express an opinion on these annual financial statements and the following aspects of the operational procedures:

(a) Whether expenses incurred during this financial period are in accordance with the appropriations approved by the Meeting of States Parties. The Meeting of States Parties, at its thirteenth meeting (9 to 13 June 2003), by its decision of 12 June 2003 as contained in document SPLOS/96, approved and appropriated an amount of 8,039,000 United States dollars ($) as the budget of the Tribunal for the period from 1 January to 31 December 2004;

(b) Whether expenditures incurred have been appropriately authorized by the party designed for that purpose in the Rules of the Tribunal or the Financial Regulations of the United Nations;

(c) Whether staff and persons being paid by the Tribunal have been recruited or engaged in the manner provided in the Rules of the Tribunal or the Financial Regulations of the United Nations;

(d) Whether goods and services have been procured in accordance with the procedures provided for in the Financial Regulations of the United Nations;

(e) Whether goods and services that have been procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal;

(f) Whether the grant given to the Tribunal by the Korea International Cooperation Agency of the Republic of Korea (KOICA) and maintained in a separate trustee account is administered in accordance with the memorandum of understanding dated 9 March 2004.

2. The annual financial statements of the Tribunal for 2004 have been prepared in accordance with the Financial Regulations and Rules of the United Nations which were applied mutatis mutandis.

3. We conducted our audit in accordance with German audit regulations and generally accepted standards for the audit of financial statements promulgated by the Institut der Wirtschaftsprüfer in Deutschland e. V. (IDW). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the annual financial statements are free of material misstatements. An audit includes examining, on a test basis, evidence supporting the amounts and

disclosures in the annual financial statements. An audit also includes assessing the accounting principles used and significant estimates made by the Registrar of the Tribunal, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

4. Our audit report was prepared in accordance with German audit regulations and generally accepted reporting standards applicable to the audit of financial statements (auditing standard of the IDW — IDW PS 450).

5. Reference is made to the General Terms of Engagement for *Wirtschaftsprüfer* and *Wirtschaftsprüfungsgesellschaften* dated 1 January 2002 and our special conditions dated 22 April/20 May 2005, in regard to the assignment and our responsibilities, including those to third parties.

6. This audit report was only prepared for purposes of documenting the audit performed vis-à-vis the Tribunal and not for purposes of third parties, towards whom we accept no liability in accordance with the legal situation in the area regulated by section 323 of the German Commercial Code (HGB).

7. The Registrar of the Tribunal is responsible for the bookkeeping, the preparation of the annual financial statements and the financial report in accordance with the Financial Regulations and Rules of the United Nations, which were applied mutatis mutandis; this also applies to the information that was provided to us concerning these documents. We have been engaged to assess these documents and this information within the scope of our audit in accordance with professional standards.

8. The examination of compliance with other legal regulations is part of our duties in auditing the annual financial statements only to the extent that they normally have an impact on the annual financial statements or the financial report.

Nature of the audit

9. Our audit was based on the prior year's annual financial statements, audited by PricewaterhouseCoopers and given an unqualified audit opinion dated 16 May 2004.

10. We conducted the audit during the months of April and May 2005.

11. According to section 317 HGB, a problem-orientated audit of annual financial statements must be of sufficient scope to ensure that material inaccuracies and violations of accounting rules are identified with sufficient assurance. In order to meet these requirements, we apply our risk- and process-orientated audit approach; this approach is applied by means of our AuditSystem/2 auditing software. It supports the planning, performance and documentation of the audit of annual financial statements.

12. Within the scope of our audit planning, we gathered information on the business activity and the economic and legal environment of the Tribunal as well as its accounting systems and performed an analytical review of the annual financial statements. The audit strategy was determined by us based on the results of this information and review and evaluations of possible misstatements. The Tribunal's system of internal accounting controls was examined by us to the extent we considered necessary to evaluate the system; our audit of the annual financial statements did not cover the system of internal accounting controls taken as a whole.

13. In auditing the values in the opening balance sheet, we relied especially on the audit report of the prior year's auditors.

14. Within the framework of our audit of bank balances, we obtained balance confirmations from the banks of the Tribunal.

15. The Registrar provided all explanations and supporting documentation that were requested and issued a written letter of representation on 20 May 2005 in accordance with professional requirements. This letter of representation specifically guarantees that the bookkeeping includes all accountable transactions, that the annual financial statements include all assets, commitments, accruals and deferrals that are required to be shown as well as all income and expenses and that all required disclosures have been included.

B. Budget

16. The Meeting of States Parties, at its thirteenth meeting, approved and appropriated an amount of $8,039,000 as the budget for the period from 1 January to 31 December 2004 as set out in document SPLOS/96.

17. With a view to providing the Tribunal with the necessary financial means to consider cases in 2004, in particular those requiring expeditious proceedings, the Meeting also approved an amount of $1,109,200 in 2004 for cases submitted to the Tribunal.

18. The Meeting of States Parties, at its thirteenth meeting, decided by its decision of 12 June 2003 (SPLOS/98) that the Tribunal shall deduct from the contributions of States Parties for 2005-06 an amount of $562,277 of the staff assessment fund as of 31 December 2003 pro rata to their contributions. Accordingly funds in the amount of $562,277 included in the "assessment special account" at 31 December 2003 have been transferred to the "Surrender of withholdings from staff assessments" in 2004. The amount of staff assessments as at 31 December 2004 ($75,520) shall be used to reimburse officials and members of the Tribunal for national taxes paid in respect of remuneration paid by the Tribunal in 2003 and 2004 and accordingly have been included by the Tribunal in the assessment special account.

19. In accordance with the decision made during the thirteenth Meeting of States Parties on 12 June 2003, in 2004 the Tribunal has surrendered the savings from the budget of the Tribunal for 2002 in the amount of $833,269 to the States Parties. A deduction of the amount of such savings was made from the assessed contributions of the States Parties from 2004. The savings from the 2003 budget of the Tribunal amounting to $488,824 and included under "Liabilities" at 31 December 2004 shall be surrendered to the States Parties in 2005-06 as a deduction of assessed contributions.

20. The statement of income and expenditure for the period from 1 January to 31 December 2004 shows an excess of income over expenditure of $276,750 (see exhibit I). Included in this amount are $92,836 other net income from different sources such as interest income ($19,124) and savings due to cancellation of obligations for prior years ($73,712). Also included are fluctuations in exchange rates resulting in a net loss of $21,575 and miscellaneous income and expenses amounting to a net loss of $2,896.

21. From the approved budget for the period 2004 amounting to $8,039,000 an amount totalling $7,830,615 was spent against approved budget lines, resulting in savings of $208,385 (see exhibit V). Significant overexpenditures have been noted in the budget lines "Established posts" ($399,724) and "Common staff costs" ($63,453). These overexpenditures were, however, offset through savings in the "Case-related costs" ($548,490) and the optimal use of resources in other budget lines.

22. The overexpenditures in total staff costs resulted mainly from the unfavourable development of the United States dollar/euro exchange rate since the related expenditures under these budget lines are primarily incurred in euros and therefore need to be translated into United States dollars at the prevailing United Nations operational rates of exchange when entered into the accounts. The budget for 2004 was prepared in March 2003 and approved in June 2003. Expenditures for staff costs denominated in euros have been translated into United States dollars in March 2003 at an average United States dollars/euro exchange rate of 0.929. Actual expenditures incurred in 2004 increased primarily as a result of exchange rate fluctuations, as the average United States dollar/euro exchange rate applied in 2004 decreased from 0.929 in 2003 to 0.754 in 2004.

23. This development could not be foreseen by the Tribunal when preparing the 2004 budget and, as the budgetary estimates did not appropriately reflect the weakening United States dollar, the Meeting of States Parties, at its fourteenth meeting (14 to 18 June 2004), authorized the Registrar to finance such overexpenditures with respect to the budget lines "Established posts" and "Common staff costs" to the extent that the shortfall in appropriations results from unforeseeable increases and/or from exchange rate fluctuations by transfers between appropriation sections as far as possible and, if necessary, by using the savings from the financial period 2002 up to $500,000 (SPLOS/118).

24. Eliminating the impacts from changes in the applied exchange rates, the Tribunal has achieved the approved budgets in all material respects and therefore was authorized to finance the overexpenditures in the budget line "Established posts" and "Common staff costs" by transfers of savings from other appropriation sections.

25. Budget estimates included in the "Case-related costs" are mainly based on the number of cases submitted to the Tribunal during the year. As only one of two anticipated cases emerged during 2004 and the meeting time for the judges of the Tribunal in Hamburg was shorter than provided for in the budget, savings of $548,490 in the contingency funds could be realized in 2004. However, it should be noted that in the event that a second case would have been submitted to the Tribunal in 2004, there would not have been an adequate budget to cover the costs. This is due to the United States dollar/euro exchange rate development.

26. In addition, expenses for temporary assistance for meetings and general temporary assistance were lower than planned since the Tribunal worked only on one case in 2004.

27. The expenses for Communications were not as high as estimated in the budget due to a general reduction in communications service costs in Germany and the fact that only one case was submitted to the Tribunal in 2004.

C. Audit opinion

28. To the International Tribunal for the Law of the Sea:

We have audited the annual financial statements consisting of the statement of income and expenditures for the period from 1 January to 31 December 2004 (exhibit I), the statement of assets, liabilities, Working Capital Fund and excess of income over expenditures as of 31 December 2004 (exhibit II), the notes to the financial statements for the period from 1 January to 31 December 2004 (exhibit III) and the financial report of the Registrar for the financial period from 1 January to 31 December 2004 (exhibit IV), hereinafter referred to together as the "annual financial statements", together with the bookkeeping system of the International Tribunal for the Law of the Sea, Hamburg, for the business year from 1 January to 31 December 2004. The maintenance of the books and records and the preparation of the annual financial statements pursuant to the Financial Regulations of the United Nations, which were applied mutatis mutandis, are the responsibility of the Registrar of the Tribunal. Our responsibility is to express an opinion on the annual financial statements, together with the bookkeeping system based on our audit.

We conducted our audit of the annual financial statements in accordance with section 317 HGB [*Handelsgesetzbuch*: German Commercial Code] and German audit regulations and generally accepted standards for the audit of the annual financial statements promulgated by the Institut der Wirtschaftsprüfer. Those standards require that we plan and perform the audit such that misstatements materially affecting the presentation of the net assets, financial position and results of operations in the annual financial statements in accordance with the Financial Regulations of the United Nations, which were applied mutatis mutandis, are detected with reasonable assurance. Knowledge of the operational activities and the economic and legal environment of the Tribunal and evaluations of possible misstatements are taken into account in the determination of audit procedures. The effectiveness of the accounting-related internal control system and the evidence supporting the disclosures in the books and records and the annual financial statements are examined primarily on a test basis within the framework of the audit. The audit includes assessing the accounting principles used and significant estimates made by the Registrar of the Tribunal, as well as evaluating the overall presentation of the annual financial statements. We believe that our audit provides a reasonable basis for our opinion.

Our audit has not led to any reservations.

In our opinion, the annual financial statements give a true and fair view of the net assets, financial position and results of operations of the International Tribunal for the Law of the Sea, Hamburg, in accordance with principles of proper accounting and with the Financial Regulations of the United Nations, which were applied mutatis mutandis. Additionally, the operational procedures of the International Tribunal for the Law of the Sea as detailed in exhibit VII were in

accordance with the Rules and Staff Rules of the International Tribunal for the Law of the Sea and the Financial Regulations and Rules of the United Nations applied mutatis mutandis.

Hamburg, 20 May 2005

Deloitte & Touche GmbH
Wirtchaftsprüfungsgesellschaft

(*Signed*) (Tesch)
Wirtschaftsprüfer

(*Signed*) (ppa. Bertram)
Wirtschaftsprüfer

D. Conclusion

The above report on our audit of the annual financial statements for the period from 1 January to 31 December 2004 of the International Tribunal for the Law of the Sea, Hamburg, complies with the legal regulations and the German audit standards and generally accepted reporting standards applicable to the audit of financial statements (auditing standard of the Institut der Wirtschaftsprüfer — IDW PS 450).

For the unqualified auditors' opinion given by us on 20 May 2005, we refer to section C, "Audit opinion" of the present report.

Hamburg, 20 May 2005

Deloitte & Touche GmbH
Wirtchaftsprüfungsgesellschaft

(*Signed*) (Tesch)
Wirtschaftsprüfer

(*Signed*) (ppa. Bertram)
Wirtschaftsprüfer

The publication or disclosure to third parties of the annual financial statements and/or financial report for the business year in a form deviating from the version on which the auditors' opinion has been expressed and their translation into other languages require our renewed prior comment if our auditors' opinion is quoted or reference is made to out audit of the annual financial statements in this context; in this respect, we draw attention to the regulations under Section 328 of the German Commercial Code (HGB).

Exhibit I

Statement of income and expenditures for the period from 1 January to 31 December 2004

(In United States dollars)

	2004	*2003*
Income		
Assessed contributions	8 039 000	7 798 300
Other income		
Interest income (net)	19 124	16 341
Savings due to cancellation of prior period obligations	73 712	40 720
Gains/losses (-) on exchange	-21 575	12 244
Miscellaneous expenses (-)	-2 896	-10 403
Total income	**8 107 365**	**7 857 202**
Expenditures		
Total expenditures and obligations (exhibit V)	-7 830 615	-7 715 425
Excess of income over expenditures	**276 750**	**141 776**

Exhibit II

Statement of assets, liabilities, Working Capital Fund and excess of income over expenditures as of 31 December 2004

(In United States dollars)

	2004	*2003*
Assets		
Cash and term deposits	2 565 281	5 082 954
Accounts receivable		
Contributions receivable from States Parties	2 570 780	1 708 091
Tax reimbursements due	97 452	268 181
Accounts receivable — others	349 082	50 708
Total assets	**5 582 595**	**7 109 934**
Liabilities		
Contributions received in advance	1 594 725	629 652
Surrender of prior years savings to States Parties	488 824	833 269
Surrender of withholdings from staff assessments	562 277	2 356 865
Obligations — current period	792 489	425 339
KOICA grant[a]	234	235
Assessment special account	75 520	614 374
Total liabilities	**3 514 069**	**4 859 734**
Working Capital Fund	1 150 000	1 150 000
Prior period gains — reserve	141 776	958 424
Prior period reserve for 2004 (see note 2)	500 000	0
Excess of income over expenditure	276 750	141 776
Total reserves and Fund balances	**2 068 526**	**2 250 200**
Total liabilities, reserves and Fund balances	**5 582 595**	**7 109 934**

[a] Korea International Cooperation Agency of the Republic of Korea.

Exhibit III

Notes to the financial statements for the period from 1 January to 31 December 2004

Note 1
Statement of the objectives and activities of the Tribunal

The International Tribunal for the Law of the Sea (ITLOS) is an international judicial body established by the United Nations Convention on the Law of the Sea ("the Convention") to adjudicate disputes arising out of the interpretation or application of the Convention. It began its activities in 1996. The Tribunal is open to States Parties to the Convention and, in certain cases, to entities other than States Parties (such as international organizations and natural or juridical persons). The jurisdiction of the Tribunal comprises all disputes submitted to it in accordance with the Convention. It also extends to all matters specifically provided for in any other agreement which confers jurisdiction upon the Tribunal. The Tribunal is composed of 21 independent members elected by the States Parties to the Convention.

Note 2
Summary of significant accounting policies

The fourth Meeting of States Parties to the Convention decided that, pending the adoption of the Tribunal's Financial Regulations, the Financial Regulations of the United Nations would apply mutatis mutandis to the Tribunal. The thirteenth Meeting of the States Parties in 2003 adopted the Financial Regulations of the Tribunal and decided that they should become effective on 1 January 2004 and apply to the financial period 2005-06 and subsequent financial periods (SPLOS/100). Pursuant to its Financial Regulations, the Tribunal adopted its Financial Rules in 2004 and they became effective on 1 January 2005. With regard to the financial period 2004 the Tribunal's accounts were therefore maintained unchanged to the prior period in accordance with the Financial Regulations and Rules of the United Nations with such modifications as required by the nature of the scope of work of the Tribunal.

The form of presentation of the statement of income and expenditures for the period from 1 January to 31 December 2004 (exhibit I) and the statement of assets, liabilities, Working Capital Fund and excess of income over expenditures as of 31 December 2004 (exhibit II) and the performance for the grant given to the Tribunal by the Korean International Cooperation Agency of the Republic of Korea (exhibit VI) for the financial period ending 31 December 2004, is in line with the formats proposed for use by the agencies of the United Nations system.

Accounting period

The current accounting period that is subject to this report is from 1 January to 31 December 2004.

Currency of accounts

The accounting unit is the United States dollar. The United Nations operational rates of exchange are the basis for establishing the equivalent in United States dollars of other currencies.

Translation of currencies

Differences between the valuation of the currencies when recorded in the accounts and when actual transactions are completed are calculated and recorded as gains and losses on exchange in the statement of income and expenditures.

Periodically, assets and liabilities in currencies other than United States dollars are revalued for accounting purposes at the prevailing United Nations operational rates of exchange. Any variance due to fluctuation of those rates is also accounted for as gain or loss on exchange in the statement of income and expenditures.

Income

Income consists of assessed contributions from the States Parties. All other income received by the Tribunal is classified as miscellaneous income and is included as general resources (see note 4).

Expenditures

All the expenditures of the Tribunal are recorded against allocated lines of budgetary appropriation. In 2004 the Tribunal was able to finance the overexpenditure in section 2, "Staff costs", by transfers between appropriation sections, in accordance with the decision taken by the fourteenth Meeting of States Parties (SPLOS/118) (see note 5).

Expenditures of the Tribunal are accounted for on an accrual basis, except for those relating to staff entitlements, which are accounted for on the basis of cash disbursements. No provision is made for any future liabilities arising from staff entitlements due to repatriation, accumulated annual leave and compensatory time (see note 3).

Assets

All funds received are deposited into the Tribunal's bank accounts, including those under special account arrangements (see note 6), and reflected as cash holdings. Fixed assets (especially computer hardware and software) are not included under assets but are charged against the current appropriations when acquired.

Liabilities

The liabilities of the Tribunal at 31 December 2004 include contributions received in advance from States Parties for the budget period 2005 ($1,594,725), obligations from part of the 2002 savings, which were surrendered in 2004 and deducted from the contributions of the States Parties to the 2005 budget ($488,824; €368,573), and part of the 2003 staff assessments ($562,277; €423,957), which were surrendered in 2004 and deducted from the contributions of the States Parties to the 2005 budget, obligations arising from goods and services procured in 2004

($792,489) and a staff assessment special account maintained for reimbursement of national taxes ($75,520).

In June 2003, the thirteenth Meeting of States Parties decided that the Tribunal should surrender the amount in the staff assessment fund as at 31 December 2002 in the amount of $2,356,865 and deduct this amount from the contributions of the States Parties for 2004 pro rata to their contributions thereto for each financial year concerned (SPLOS/98). This obligation has been disclosed in the reporting line "Surrender of withholdings from staff assessment" in the statement of assets, liabilities, Working Capital Fund and excess of income over expenditures (exhibit II).

Part of the staff assessment accumulated in 2003 ($92,838; €70,000) was set aside to reimburse officials and members of the Tribunal for the years 2003 and 2004 (SPLOS/98). The current balance amounting to $75,520 is reported in the assessment special account.

Of the total savings from the 2002 budget, $488,824 was surrendered (see discussions above) and an amount of $500,000 was withheld to finance, if necessary, any overexpenditure in 2004 (SPLOS/118).

Working Capital Fund

The Working Capital Fund currently stands at $1,150,000. This corresponds to the level envisaged in the decision of the eleventh Meeting of States Parties (SPLOS/70, para. 3).

Note 3
Contingent liability

The net contingent liability for staff benefits at 31 December 2004 amounting to $547,443 consists of the following (in United States dollars):

Accumulated annual leave	207 099
Compensatory time	6 989
Entitlement due to repatriation	333 355
	547 443

In accordance with the Financial Regulations and Rules of the United Nations, there is no provision in the accounts for contingent liabilities. The expenditures will be charged against the budget appropriations in the period when actual payments are made. In accordance with the Staff Regulations and Rules of the Tribunal the contingent liability reflected above is based on net remuneration.

In addition to the above contingent liabilities there is a liability for pension plan costs for the elected members of the Tribunal. However, these expenditures are charged against the budget appropriations in the period when actual payments are made. The total liability would require an actuarial calculation.

Note 4
Income

The Tribunal's income in the financial period 2004 totalled $8,107,365. Income includes the contributions of 146 States Parties (including the European Community) totalling $8,039,000. This included an amount of $833,269 from savings in the 2001 budget of the Tribunal. In accordance with the decision of the thirteenth Meeting of States Parties, the savings were surrendered to the States Parties in 2003 by deducting them from the assessed contributions of States Parties for 2004.

Income also included savings due to the cancellation of prior period obligations in the amount of $73,712, net interest income of $19,124 and a net loss of $21,575 from fluctuations in exchange rates.

Of the total income for 2004 from contributions of the States Parties, an amount of $1,147,926 was outstanding at the end of the financial period. With regard to the previous budgets of the Tribunal, the following amounts were still outstanding (in United States dollars):

1996/97	66 077
1998	38 596
1999	63 820
2000	97 773
2001	288 894
2002	460 277
2003	407 430
	1 422 867

The balance of unpaid contributions with respect to the overall budgets of the Tribunal (1996/97 to 2004) therefore amounts to $2,570,793. No provision for doubtful accounts receivable for the overdue balances is envisaged under the United Nations Financial Regulations and Rules.

Note 5
Expenditures

The budget for 2004 was approved by the Meeting of States Parties in June 2003 (SPLOS/96). Budget estimates were based on the United States dollar/euro exchange rate of 0.929 in March 2003. By the end of the financial year, the United States dollar/euro exchange rate was 0.754. This represents a decrease of 19 per cent in the value of the United States dollar against the euro. As such a sharp depreciation of the United States dollar could not be anticipated by the Tribunal when preparing the budget estimates for 2004, the weakening of the United States dollar led to unforeseen overexpenditures in certain budget lines.

The Tribunal's expenditures for the financial period 2004 totalled $7,830,615. There was an overexpenditure in the amount of $424,499 under section 2 "Staff costs". This was primarily due to exchange rate fluctuations between the United States dollar and the euro, increases in the standard costs for staff and common staff costs applied within the United Nations common system and increases in the daily subsistence allowance rate for Hamburg as determined by the International Civil Service Commission.

In the event that the Tribunal was unable to meet approved expenditures for 2004 from appropriations made with respect to the budget lines "Established posts" and "Common staff costs", the fourteenth Meeting of States Parties authorized the Registrar to incur expenditures to the extent that the shortfall in appropriations results from unforeseeable increases in daily subsistence allowance (DSA), salary and common staff costs as applied within the United Nations common system (SPLOS/118).

The Meeting of States Parties further authorized the Tribunal to finance the overexpenditures referred to above by transfers between appropriation sections. In accordance with that decision the $424,499 overexpenditures have been financed by transfers from savings in the section "Judges" under "Case-related costs".

Note 6
Assets

Contributions receivable from States Parties as at 31 December 2004 amounted to a total of $2,570,780, of which $1,422,867 were overdue by more than one year (see note 4).

The aggregate of accounts receivable, advances and deposits as at 31 December 2004 totalled $3,017,314.

Exhibit IV

Financial report of the Registrar for the financial period from 1 January to 31 December 2004

Introduction

1. The Registrar of the Tribunal for the Law of the Sea submits herewith the financial report for the financial period from 1 January to 31 December 2004. This is the eighth financial period and the eighth financial report of the International Tribunal for the Law of the Sea (ITLOS).

2. The financial report includes the statement on income and expenditures (statement I), the statement of assets, liabilities (statement II), the notes to the financial statements (exhibit I-III), and the performance report for the grant given to the Tribunal by the Korea International Cooperation Agency of the Republic of Korea (exhibit VI). Statements I and II are presented to facilitate review by States Parties to the Convention on the Law of the Sea. They are in line with the formats agreed for the harmonization of the accounts of agencies and organizations in the United Nations common system. The financial report provides the financial results of ITLOS activities in 2004. Important elements are summarized in the following paragraphs:

3. The cash balance of 2,565,281 United States dollars ($) as at 31 December 2004 represents a sharp decrease compared to the 2003 year end cash balance which stood at $5,082,954. This was mainly due to the surrender of staff assessments and prior year savings during the financial year 2004.

Income

4. Income in the financial period 2004 included assessed contributions amounting to $8,039,000 from 146 States Parties (including the European Community). Of the total amount of contributions for 2004, $1,147,926 was outstanding as at 31 December 2004. The balance of unpaid contributions with respect to the overall budget of the Tribunal (1996 to 2004) amounted to $2,570,793 on that date. In addition, other net income totalled $8,365 from different sources such as interest income, the cancellation of prior period obligations after adjustments for exchange differences and miscellaneous losses.

Expenditures

5. The expenditures of the Tribunal for the financial period 2004 totalled $7,830,615. Due mainly to the exchange rate fluctuations there were over-expenditures in section "Staff costs". As a result of savings in "Case-related costs" and optimal use of resources in other budget lines, the approved budget for the period amounting to $8,039,000 was not overspent.

Special accounts

6. In accordance with the decision of the Meeting of States Parties (SPLOS/98), the staff assessment accumulated in the special account as at 31 December 2003 was surrendered and deducted from the contribution of the States Parties to the 2005 budget. An amount of $92,838 was set aside to reimburse members and officials of

the Tribunal for national taxes charged in respect of remuneration paid by the Tribunal in 2003 and 2004.

7. The Tribunal also surrendered part of the savings from the 2002 budget and deducted it from the contributions of the States Parties to the budget 2005. An amount of $500,000 was withheld to finance, if necessary, any over-expenditure in 2004 (SPLOS/118).

8. As reported to the fourteenth Meeting of States Parties a trust fund was established to finance the participation of interns from developing countries in the internship programme of the Tribunal. The trust fund (the Korea International Cooperation Agency of the Republic of Korea (KOICA) grant) granted $150,000 to the Tribunal and was established by the signing of a memorandum of understanding between the Tribunal and KOICA on 9 March 2004. Upon receipt, the amount of $150,000 was converted into 120,600 euros in the basis of United States dollar/euro exchange rate of 0.804 fixed by the United Nations for March 2004. Nine interns from developing countries benefited from the grant in 2004.

Institutional arrangements

9. The financial records of the Tribunal were maintained in the network version of the Sun computerized accounting system.

(*Signed*) Philippe Gautier
Registrar

Exhibit V

Expenditure report 2004

(In United States dollars)

	Objects of expenditure	*Approved budget 2004*	*Disbursements*	*Balance*	*Total expenditure/ approved budget (Percentage)*
I.	**Recurrent expenditure**				
1.	**Remuneration of judges**	**1 862 100**	**1 817 167**	**44 933**	
	Annual allowances	1 298 300	1 253 856	44 444	96.58
	Special allowances	360 100	376 506	-16 406	104.56
	Travel of judges to meetings	130 000	114 142	15 858	87.8
	Judges' pension scheme	67 700	67 754	-54	100.08
	Insurance scheme	6 000	4 909	1 091	81.82
2.	**Staff costs**	**3 276 600**	**3 701 099**	**-424 499**	
	Established posts	2 073 600	2 473 324	-399 724	119.28
	Common staff costs	932 100	995 553	63 453	106.81
	Overtime	21 000	23 060	-2 060	109.81
	Temporary assistance for meetings	114 900	97 487	17 413	84.85
	General temporary assistance	100 000	76 449	23 551	76.45
	Training	35 000	35 226	-226	100.65
3.	**Representation allowance**	**7 600**	**7 600**	**0**	**100.00**
4.	**Official travel**	**90 700**	**81 440**	**9 260**	**89.79**
5.	**Hospitality**	**7 100**	**6 972**	**128**	**98.2**
6.	**Operating expenditures**	**1 415 700**	**1 389 363**	**26 337**	
	Maintenance of premises (including facility management and contractual services)	1 032 000	1 033 381	-1 381	100.13
	Rental and maintenance of equipment	177 500	170 418	7 082	96.01
	Communications	103 500	86 304	17 196	83.39
	Miscellaneous services and charges (including bank charges)	20 000	23 201	-3 201	116.01
	Supplies and materials	65 000	63 857	1 143	98.24
	Special services (external audit)	17 700	12 202	5 498	68.94
7.	**Library and related costs**	**175 000**	**172 782**	**2 218**	
	Library procurement of books and publications	120 000	120 484	-484	100.4
	External printing and binding	55 000	52 298	2 702	95.09
II.	**Non-recurrent expenditure**				
	Furniture and equipment				
	Purchase of equipment	95 000	93 482	1 518	98.4
III.	**Case-related costs**	**1 109 200**	**560 710**	**5 484 490**	**50.55**
1.	**Judges**	**897 400**	**386 695**	**510 705**	
	Special allowances	716 800	320 677	396 123	44.74
	Compensation to judges ad hoc	43 600	0	43 600	0.00
	Travel to meetings including judges ad hoc	137 000	66 018	70 982	48.19
2.	**Staff costs**	**211 800**	**174 015**	**37 785**	
	Temporary assistance for meetings	197 800	153 197	44 603	77.45
	Overtime	14 000	20 818	-6 818	148.7
3.	**Miscellaneous**	**0**	**0**	**0**	
IV.	**Working capital fund**	**0**	**0**	**0**	**0.00**
	Total	**8 039 000**	**7 830 615**	**208 385**	**97.41**

Exhibit VI

Performance report for the grant given to the Tribunal by the Korea International Cooperation Agency of the Republic of Korea (4 March to 31 December 2004)

(In euros)

KOICA grant opening balance ($150,000 at €0.804)	120 600.00
Gain on exchange (Deutsche Bank rate of exchange 0.820)	2 431.50
Total	**123 031.50**
Disbursements	
Travel of participants	11 497.53
Subsistence allowance of participants	13 556.45
Travel of Judge Park	3 941.11
Subtotal	**28 995.09**
Bank charges	142.90
Loss on exchange	0.72
Subtotal	**143.62**
Total disbursements	**29 183.71**
Bank balance as at 31 December 2004	93 892.79
Obligations	4 125.00
Available balance	**89 767.79**

Exhibit VII

Audit procedures and results of additional audit scope

As directed by the President of the Tribunal and set out in his letter dated 1 April 2005, we have audited the following aspects of operating procedures in addition to our audit of the annual financial statements as of 31 December 2004:

(a) Whether the expenses incurred during this financial period are in accordance with the appropriations approved by the Meeting of States Parties. The Meeting of States Parties, at its thirteenth Meeting (9 to 13 June 2003), by its decision of 12 June 2003, as contained in document SPLOS/96, approved and appropriate an amount of 8,039,000 United States dollars ($) as the budget of the International Tribunal for the Law of the Sea for the period 1 January to 31 December 2004;

(b) Whether expenditures incurred have been appropriately authorized by the party designed for that purpose in the Rules of the Tribunal or the Financial Regulations of the United Nations;

(c) Whether staff and persons being paid by the Tribunal have been recruited or engaged in the manner provided in the Rules of the Tribunal or the Financial Regulations of the United Nations;

(d) Whether goods and services have been procured in accordance with the procedures provided for in the Financial Regulations of the United Nations;

(e) Whether goods and services which have been procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal;

(f) Whether the grant given to the Tribunal by The Korea International Cooperation Agency of the Republic of Korea (KOICA) and maintained in a separate trustee account is administered in accordance with the Memorandum of Understanding dated 9 March 2004.

As part of our audit of the financial statements the following additional procedures have been performed by us:

1. Approval of expenses

As instructed, we have audited whether the expenses incurred during this financial period are in accordance with the appropriations approved by the Meeting of States Parties.

From the approved budget for the period 2004 amounting to $8,039,000 an amount totalling to $7,830,615 was spent against approved budget lines, resulting in savings of $208,385. Significant over-expenditures have been noted in the budget lines "Established posts" ($399,724) and "Common staff costs" ($63,453). These over-expenditures resulted mainly from the unfavourable development of the United States dollar vis-à-vis the euro since the related expenditures under these budget lines are primarily incurred in euro and therefore need to be translated into United States dollars. Eliminating the impacts from changes in the applied exchange rates, the Tribunal has achieved the approved budgets in all material respects and therefore was authorized to finance the over-expenditures by transfers of savings from other budget lines.

2. **Authorization of expenditures**

We have audited the procedures for the authorization of expenditures as outlined in the Financial Regulations of the United Nations and tested on a sample basis if these procedures have been strictly followed by the Tribunal in all material aspects.

As a result of the work done, no significant matter came to our attention. In our opinion the procedures for the authorization of expenditures were carried out in accordance with the Financial Regulations of the United Nations.

3. **Procedures for recruiting/engaging staff**

We have audited if the procedures for recruiting and engaging staff are in line with the staff regulations of the Tribunal and United Nations staff rules and selected for testing the recruitment procedures for two out of five new employees engaged in 2004.

As a result of the work done, no discrepancies came to our attention. The Tribunal has carried out the procedures for recruiting and engaging staff in accordance with the Rules of the Tribunal and the Financial Regulations and staff rules of the United Nations.

4. **Procedures for procurement of goods and services**

We have audited if the procedures followed by the Tribunal in the order processes were in line with the Financial Regulations of the United Nations (i.e. includes request of bids or tenders, fair analysis of tenders, written contracts etc.) and tested on a sample basis, that these procedures have been followed in all material respects by the Tribunal.

As a result of the work done, no matters came to our attention. In our opinion the procedures for procurement of goods and services were carried out in accordance with the Financial Regulations of the United Nations.

5. **Examination whether goods and services procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal**

We have audited, if (a) the expenditures reported for the fiscal year have been properly included in the statement of income and expenditures and have been charged to the appropriate budget line and (b) the goods and services procured were necessary or not excessive with regard to circumstances and the functions of the Tribunal.

As a result of the above-described procedures and excluding the impacts from exchange rate fluctuations in 2004, we noted minor over-expenditures within single budget lines. The over-expenditures were not excessively high, could be reasonably explained and were compensated by savings under other budget lines. The equipment acquired during the financial period 2004 is duly listed in the inventory and is being used as required by the circumstances and the functions of the Tribunal.

6. Examination whether the grant given by KOICA is administered in accordance with the memorandum of understanding

We have audited whether the funds granted given to the Tribunal by the Korea International Cooperation Agency of the Republic of Korea (KOICA) and maintained in a separate trustee account, were administered in accordance with the memorandum of understanding dated 9 March 2004.

As a result of the work done, no significant matter came to our attention. In our opinion the administration of the funds granted given by KOICA is in accordance with the memorandum of understanding dated 9 March 2004.

Exhibit VIII[a]

General engagement terms
for
Wirtschaftsprüfer and Wirtschaftsprüfungsgesellschaften
[German Public Auditors and Public Audit Firms]
as of 1 January 2002

1. Scope

(1) These engagement terms are applicable to contracts between Wirtschaftsprüfer [German Public Auditors] or Wirtschaftsprüfungsgesellschaften [German Public Audit Firms] (hereinafter collectively referred to as the "Wirtschaftsprüfer") and their clients for audits, consulting and other engagements to the extent that something else has not been expressly agreed to in writing or is not compulsory due to legal requirements.

(2) If, in an individual case, as an exception contractual relations have also been established between the Wirtschaftsprüfer and persons other than the client, the provisions of No. 9 below also apply to such third parties.

2. Scope and performance of the engagement

(1) Subject of the Wirtschaftsprüfer's engagement is the performance of agreed services – not a particular economic result. The engagement is performed in accordance with the Grundsätze ordnungsmäßiger Berufsausübung [Standards of Proper Professional Conduct]. The Wirtschaftsprüfer is entitled to use qualified persons to conduct the engagement.

(2) The application of foreign law requires – except for financial attestation engagements – an express written agreement.

(3) The engagement does not extend – to the extent it is not directed thereto – to an examination of the issue of whether the requirements of tax law or special regulations, such as, for example, laws on price controls, laws limiting competition and Bewirtschaftungsrecht [laws concerning certain aspects of specific business operations] were observed; the same applies to the determination as to whether subsidies, allowances or other benefits may be claimed. The performance of an engagement encompasses auditing procedures aimed at the detection of the defalcation of books and records and other irregularities only if during the conduct of audits grounds therefor arise or if this has been expressly agreed to in writing.

(4) If the legal position changes subsequent to the issuance of the final professional statement, the Wirtschaftsprüfer is not obliged to inform the client of changes or any consequences resulting therefrom.

3. The client's duty to inform

(1) The client must ensure that the Wirtschaftsprüfer – even without his special request – is provided, on a timely basis, with all supporting documents and records required for and is informed of all events and circumstances which may be significant to the performance of the engagement. This also applies to those supporting documents and records, events and circumstances which are become known during the Wirtschaftsprüfer's work.

(2) Upon the Wirtschaftsprüfer's request, the client must confirm in a written statement drafted by the Wirtschaftsprüfer that the supporting documents and records and the information and explanations provided are complete.

4. Ensuring independence

The client guarantees to refrain from everything which may endanger the independence of the Wirtschaftsprüfer's staff. This particularly applies to offers of employment and offers to undertake engagements on one's own account.

5. Reporting and verbal information

If the Wirtschaftsprüfer is required to present the results of his work in writing, only that written presentation is authoritative. For audit engagements the long-form report should be submitted in writing to the extent that nothing else has been agreed to. Verbal statements and information provided by the Wirtschaftsprüfer's staff beyond the engagement agreed to are never binding.

6. Protection of the Wirtschaftsprüfer's intellectual property

The client guarantees that expert opinions, organizational charts, drafts, sketches, schedules and calculations – especially quantity and cost computations – prepared by the Wirtschaftsprüfer within the scope of the engagement will be used only for his own purposes.

7. Transmission of the Wirtschaftsprüfer's professional statement

(1) The transmission of a Wirtschaftsprüfer's professional statements (long-form reports, expert opinions and the like) to a third party requires the Wirtschaftsprüfer's written consent to the extent that the permission to transmit to a certain third party does not result from the engagement terms.

The Wirtschaftsprüfer is liable (within the limits of No. 9) towards third parties only if the prerequisites of the first sentence are given.

(2) The use of the Wirtschaftsprüfer's professional statements for promotional purposes is not permitted; an infringement entitles the Wirtschaftsprüfer to immediately cancel all engagements not yet conducted for the client.

8. Correction of deficiencies

(1) Where there are deficiencies, the client is entitled to subsequent fulfillment [of the contract]. The client may demand a reduction in fees or the cancellation of the contract only for the failure to subsequently fulfill [the contract]. If the engagement was awarded by a person carrying on a commercial business as part of that commercial business, a government-owned legal person under public law or a special government-owned fund under public law, the client may demand the cancellation of the contract only if the services rendered are of no interest to him due to the failure to subsequently fulfill [the contract]. No. 9 applies to the extent that claims for damages exist beyond this.

(2) The client must assert his claim for the correction of deficiencies in writing without delay. Claims pursuant to the first paragraph not arising from an intentional tort cease to be enforceable one year after the commencement of the statutory time limit for enforcement.

(3) Obvious deficiencies, such as typing and arithmetical errors and formalia (Mängel [deficiencies associated with technicalities]) contained in a Wirtschaftsprüfer's professional statements (long-form reports, expert opinions and the like) may be corrected – and also be applicable versus third parties – by the Wirtschaftsprüfer at any time. Errors which may call into question the conclusions contained in the Wirtschaftsprüfer's professional statements entitle the Wirtschaftsprüfer to withdraw – also versus third parties – such statements. In these cases noted the Wirtschaftsprüfer should first hear the client, if possible.

9. Liability

(1) The liability limitation of § [("Article") 323 (2) paragraph 2) HGB ("Handelsgesetzbuch" German Commercial Code) applies to statutory audits required by law.

(2) Liability for negligence: An individual case of damages

If neither No. 1 is applicable nor a regulation exists in an individual case, pursuant to § 54a (1) no. 2 WPO ("Wirtschaftsprüferordnung" Law regulating the Profession of Wirtschaftsprüfer) the liability of the Wirtschaftsprüfer for claims of compensatory damages of any kind – except for damages resulting from injury to life, body or health – for an individual case of damages resulting from negligence is limited to € 4 million; this also applies if liability to a person other than the client should be established. An individual case of damages also exists in relation to a uniform damage arising from a number of breaches of duty. The individual case of damages encompasses all consequences from a breach of duty without taking into account whether the damages occurred in one year or in a number of successive years. In this case multiple acts or omissions or acts based on a similar source of error or on a source of error of an equivalent nature are deemed to be a uniform breach of duty if the matters in question are legally or economically connected to one another. In this event the claim against the Wirtschaftsprüfer is limited to € 5 million. The limitation to the tivefold of the minimum amount insured does not apply to compulsory audits required by law.

(3) Preclusive deadlines

A compensatory damages claim may only be lodged within a preclusive deadline of one year of the rightful claimant having become aware of the damage and of the event giving rise to the claim – at the very latest, however, within 5 years subsequent to the event giving rise to the claim. The claim expires if legal action is not taken within a six month deadline subsequent to the written refusal of acceptance of the indemnity and the client was informed of this consequence. The right to assert the bar of the preclusive deadline remains unaffected. Sentences 1 to 3 also apply to legally required audits with statutory liability limits.

[a] This is an English translation of the German text, which is the sole authoritative version.

10. Supplementary provisions for audit engagements

(1) A subsequent amendment or abridgement of the financial statements or management report audited by a Wirtschaftsprüfer and accompanied by an auditor's report requires the written consent of the Wirtschaftsprüfer even if these documents are not published. If the Wirtschaftsprüfer has not issued an auditor's report, a reference to the audit conducted by the Wirtschaftsprüfer in the management report or elsewhere specified for the general public is permitted only with the Wirtschaftsprüfer's written consent and using the wording authorized by him.

(2) If the Wirtschaftsprüfer revokes the auditor's report, it may no longer be used. If the client has already made use of the auditor's report, he must announce its revocation upon the Wirtschaftsprüfer's request.

(3) The client has a right to 5 copies of the long-form report. Additional copies will be charged for separately.

11. Supplementary provisions for assistance with tax matters

(1) When advising on an individual tax issue as well as when furnishing continuous tax advice, the Wirtschaftsprüfer is entitled to assume that the facts provided by the client – especially numerical disclosures – are correct and complete; this also applies to bookkeeping engagements. Nevertheless, he is obliged to inform the client of any errors he has discovered.

(2) The tax consulting engagement does not encompass procedures required to meet deadlines, unless the Wirtschaftsprüfer has explicitly accepted the engagement for this. In this event the client must provide the Wirtschaftsprüfer, on a timely basis, all supporting documents and records – especially tax assessments – material to meeting the deadlines, so that the Wirtschaftsprüfer has an appropriate time period available to work therewith.

(3) In the absence of other written agreements, continuous tax advice encompasses the following work during the contract period:

a) preparation of annual tax returns for income tax, corporation tax and business tax, as well as net worth tax returns on the basis of the annual financial statements and other schedules and evidence required for tax purposes to be submitted by the client;

b) examination of tax assessments in relation to the taxes mentioned in (a);

c) negotiations with tax authorities in connection with the returns and assessments mentioned in (a) and (b);

d) participation in tax audits and evaluation of the results of tax audits with respect to the taxes mentioned in (a);

e) participation in Einspruchs- und Beschwerdeverfahren [appeals and complaint procedures] with respect to the taxes mentioned in (a).

In the afore-mentioned work the Wirtschaftsprüfer takes material published legal decisions and administrative interpretations into account.

(4) If the Wirtschaftsprüfer receives a fixed fee for continuous tax advice, in the absence of other written agreements the work mentioned under paragraph 3 (d) and (e) will be charged separately.

(5) Services with respect to special individual issues for income tax, corporate tax, business tax, valuation procedures for property and net worth taxation, and net worth tax as well as all issues in relation to sales tax, wages tax, other taxes and dues require a special engagement. This also applies to:

a) the treatment of nonrecurring tax matters, e. g. in the field of estate tax, capital transactions tax, real estate acquisition tax;

b) participation and representation in proceedings before tax and administrative courts and in criminal proceedings with respect to taxes, and

c) the granting of advice and work with respect to expert opinions in connection with conversions of legal form, mergers, capital increases and reductions, financial reorganizations, admission and retirement of partners or shareholders, sale of a business, liquidations and the like.

(6) To the extent that the annual sales tax return is accepted as additional work, this does not include the review of any special accounting prerequisites nor of the issue as to whether all potential legal sales tax reductions have been claimed. No guarantee is assumed for the completeness of the supporting documents and records to validate the deduction of the input tax credit.

12. Confidentiality towards third parties and data security

(1) Pursuant to the law the Wirtschaftsprüfer is obliged to treat all facts that he comes to know in connection with his work as confidential, irrespective of whether these concern the client himself or his business associations, unless the client releases him from this obligation.

(2) The Wirtschaftsprüfer may only release long-form reports, expert opinions and other written statements on the results of his work to third parties with the consent of his client.

(3) The Wirtschaftsprüfer is entitled – within the purposes stipulated by the client – to process personal data entrusted to him or allow them to be processed by third parties.

13. Default of acceptance and lack of cooperation on the part of the client

If the client defaults in accepting the services offered by the Wirtschaftsprüfer or if the client does not provide the assistance incumbent on him pursuant to No. 3 or otherwise, the Wirtschaftsprüfer is entitled to cancel the contract immediately. The Wirtschaftsprüfer's right to compensation for additional expenses as well as for damages caused by the default or the lack of assistance is not affected; even if the Wirtschaftsprüfer does not exercise his right to cancel.

14. Remuneration

(1) In addition to his claims for fees or remuneration, the Wirtschaftsprüfer is entitled to reimbursement of his outlays; sales tax will be billed separately. He may claim appropriate advances for remuneration and reimbursement of outlays and make the rendering of his services dependent upon the complete satisfaction of his claims. Multiple clients awarding engagements are jointly and severally liable.

(2) Any set off against the Wirtschaftsprüfer's claims for remuneration and reimbursement of outlays is permitted only for undisputed claims or claims determined to be legally valid.

15. Retention and return of supporting documentation and records

(1) The Wirtschaftsprüfer retains, for seven years, the supporting documents and records in connection with the completion of the engagement – that had been provided to him and that he has prepared himself – as well as the correspondence with respect to the engagement.

(2) After the settlement of his claims arising from the engagement, the Wirtschaftsprüfer, upon the request of the client, must return all supporting documents and records obtained from him or for him by reason of his work on the engagement. This does not, however, apply to correspondence exchanged between the Wirtschaftsprüfer and his client and to any documents of which the client already has the original or a copy. The Wirtschaftsprüfer may prepare and retain copies or photocopies of supporting documents and records which he returns to the client.

16. Applicable law

Only German law applies to the engagement, its conduct and any claims arising therefrom.